

Notice of Allowability

Application No.

09/986,344

Examiner

Scott D. Priebe, Ph.D.

Applicant(s)

LAW, PETER K.

Art Unit

1633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment of 21 July 2006.
2. ☒ The allowed claim(s) is/are 52-70.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Marvin Motsenbocker on 15 Aug. 2006.

The application has been amended as follows:

In the specification:

In line 2 of the first sentence of the specification, which was added in the preliminary amendment of 08 Nov. 2001, -- now abandoned, -- was inserted after "1998,".

In the specification at page 10, lines 21-22, "(-Phe-Phe-Gly-Leu-Met)" was deleted.

In the claims:

In claim 53, line 3, both occurrences of "satellite cells" were replaced with --satellite myoblast cells--.

In claim 55, line 1, "satellite cells" was replaced with --satellite myoblast cells--.

In claim 56, line 2, "cells" was replaced with --myoblasts--.

In claim 58, line 2, both occurrences of "cells" were replaced with --myoblasts--.

In claim 60, line 2, both occurrences of "cells" were replaced with --myoblasts--.

In claim 61, last line, "chondroitin sulfate" was replaced with --large chondroitin-6-sulfate proteoglycan--.

Art Unit: 1633

In claim 62, line 3, both occurrences of “satellite cells” were replaced with --satellite myoblast cells--.

In claim 64, line 1, “satellite cells” was replaced with --satellite myoblast cells--.

In claim 65, line 2, “myoblast cells” was replaced with --myoblasts--.

In claim 66, line 2, “myogenic cells” was replaced with --myoblasts--.

In claim 67, line 2, both occurrences of “cells” were replaced with --myoblasts--.

In claim 69, line 2, “cells” was replaced with --myoblasts--.

In claim 70, line 1, “cells” was replaced with --myoblasts--.

In claim 70, line 2, “a region that contains fat cells” was replaced with --adipose tissue--.

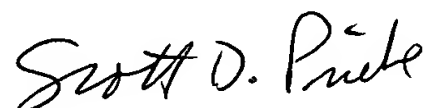
The amendment to page 10 is solely to avoid the necessity of filing a Sequence Listing. The deleted information is directed to a non-elected invention. The amendments to claims 53, 55, 56, 58, 60, 61, 62, 64-67, and 69, and claim 70, line 1, were necessary to provide consistent claim terminology throughout the claims. The amendment to claim 70, line 2, removed a limitation that was directed to subject matter added by preliminary amendment, and new relative to the parent application, such that the application would be a continuation-in-part. The amendment was made to preserve the relationship of the instant application as a continuation of the parent application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott D. Priebe, Ph.D. whose telephone number is (571) 272-0733. The examiner can normally be reached on M-F, 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Nguyen can be reached on (571) 272-0731. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1633

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Scott D. Priebe, Ph.D.

Primary Examiner

Art Unit 1633